IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 24916 of 2007(N)

PETITIONERS:
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1. **SAMUEL,**
   AGED 58 YEARS,S/O.ABRAHAM, K.P. NO. 11 839
   VILAYIL CHIRAKKADA VEEDU,ANCHUMUKKU VAYAL
   MUTTADA P.O., THIRUVANANTHAPURAM.

2. **SMT. OMANA SAMUEL,**
   AGED 51 YEARS, W/O. SAMUEL,
   VILAYIL CHIRAKKADA VEEDU,ANCHUMUKKU VAYAL
   MUTTADA P.O., THIRUVANANTHAPURAM.

3. **MISS JINCY JOB (MINOR)**
   AGED 10 YEARS,D/O. MONICA JACOB
   K.P. NO. 11 839
   VILAYIL CHIRAKKADA VEEDU, ANCHUMUKKU VAYAL
   MUTTADA P.O.THIRUVANTHAPURAM.REPRESENTED BY HER GR
   AND FATHER SAMUEL IST PETITIONER.

BY ADV. SRI.P.V.ANIL

RESPONDENTS:
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1. **THE COMMISSIONER OF POLICE**
   THIRUVANANTHAPURAM.

2. **THE CIRCLE INSPECTOR OF POLICE**
   THIRUVANANTHAPURAM.

3. **THE SUB INSPECTOR OF POLICE,**
   PEROORKADA.

4. **SMT. SABEEN BEEGUM,SABEER MANZIL**
   ANCHUMUKKU VAYAL, MUTTADA PO
   THIRUVANANTHAPURAM.

5. SHANAVAZ,
SABEER MANZIL
ANCHUMUKKU VAYAL, MUTTADA P.O.
THIRUVANANTHAPURAM.

6. SABEER,
SABEER MANZIL,
ANCHUMUKU VAYAL MUTTADA P.O.
THIRUVANANTHAPURAM.

7. MR. SUDHEER
SABEER MANZIL
ANCHUMUKKU VAYAL, MUTTADA P.O.
THIRUVANANTHAPURAM.

R4 TO R7 BY ADV. SRI.R.T.PRADEEP
SRI.V.VIJULAL
GOVERNMENT PLEADER SRI. P.A.SALIM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

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WP(C) NO: 24916/2007

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1. COPY OF THE COMPLAINT DT. 30/07/2007 SUBMITTED SMT. MONICA JACOB TO THE PRESIDENT, KUDAPPANAKKUNNU PANCHAYATH.

EXT.P2. COPY OF THE COMPLAINT FILED BY THE P1 BEFORE THE R3 DT. 6/08/2007.

EXT.P3. COPY OF THE COMPLAINT LODGED BY THE P1 BEFORE THE R2 DT. 8/8/07.

EXT.P4. COPY OF THE COMPLAINT LODGED BY P1 BEFORE THE R1 DT. 8/8/07.

EXT.P5. COPY OF THE OP TICKET NO. 177981 DT. 11/08/2007 TO THE P1 FROM THE GOVT. HOSPITAL, PEROORKADA.

EXT.P6. COPY OF THE COMPLAINT DT. 11/08/2007 BY P1 BEFORE THE R3.

EXT.P7. COPY OF THE CMP NO. 2671/2007 FILED BY THE P1 BEFORE THE JFCM COURT -II, THIRUVANANTHAPURAM.

EXT.P8. COPY OF THE COMPLAINT FILED BY THE P1 BEFORE THE R1 ON 14/08/07.

EXT.P9. COPY OF THE FIR REGISTERED BY THE R3 IN CR. NO. 477/2007.

EXT.P10. COPY OF THE FIR CRIME NO. 475/2007 DT. 17/08/2007 OF THE R3 POLICE STATION.

EXT.P11A TO P11J. COPY OF THE MEDICAL RECORDS AS PER O.P NO. 18340/ DTD. 18/08/2007 FROM PEROORKADA GOVT. HOSPITAL OF THE DEPONENT.

RESPONDENT'S EXHIBITS

EXT.R4A. COPY OF THE ROUGHT SKETCH SHOWING THE RESPECTIVE PROPERTY.

EXT.R4B. COPY OF THE RECEIPT OF THE PETITION DT. 4/08/2007 BEFORE THE WOMEN CELL.

EXT.R4C. COPY OF THE FIR DT. 18/8/07.

EXT.P4D. COPY OF THE TICKET DT. 18/8/07.

True copy

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K.BALAKRISHNAN NAIR &

T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) NO. 24916 OF 2007-N

Dated 25th September, 2007.

JUDGMENT

Balakrishnan Nair, J.

The petitioners have approached this Court, seeking police protection to their lives. They submit, the 4th respondent is the owner of a property in the neighbourhood. Its boundary abuts the property of the petitioners. When a construction was made there, touching the boundary of the petitioners' property, violating the distance rule under the Kerala Buildings Rules, the 1st petitioner complained before the local Panchayat. Pursuant to it, the Panchayat ordered demolition of the structure and it was demolished also. Thereafter, the 4th respondent and other party respondents are harassing the petitioners. It is also alleged that they have manhandled them on more than one occasion. Though the police was moved, no action was taken. Therefore, the 1st petitioner moved the concerned criminal court and got Ext.P9 crime registered. In the above background of threat from the part of respondents 4 to 7, the petitioners seek protection to their lives.

2. The learned Government Pleader, upon instructions, submitted that the 1st petitioner filed a complaint before the 2nd respondent regarding the allegations of physical violence from the part of the party respondents. On enquiry, it was found that there was a civil dispute between them concerning a pathway and therefore, the parties were advised to maintain peace and move the civil court.

3. The 4th respondent has filed a counter affidavit, denying the allegations of the petitioners and also making counter allegations against them. It is alleged that the 1st petitioner has tried to outrage the modesty of the 4th respondent and on the information lodged by her, Ext.R4(c) FIR has been registered against him. It is also submitted that the 2nd petitioner came to the house of the 4th respondent on 3.8.2007 and broke the glass panel of the windows. So, she filed a complaint before the State Womens Cell, which is a unit of the police dealing with the complaints of women. The parties were summoned and were advised to maintain peace.

4. Having regard to the nature of the allegations, we feel that to redress their grievances, the parties have to move the competent civil court and criminal court. In the face of the allegations and counter allegations, we think it is not proper for this court to issue any direction to the police in favour of one side or the other. If there is any commission of cognizable

offence or apprehension of commission of cognizable offence, the parties (the petitioners or the respondents 4 to 7) may bring the same to the notice of the 3rd respondent. In that event he shall enquire into it and if the allegations are found true, take follow up action in accordance with law.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

Nm/